



JENNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
LANSING

ROBERT W. SWANSON
DIRECTOR

Analysis of Enrolled House Bill 5553

Topic: Fire Authorities
Sponsor: Representative Hune
Co-Sponsors: Representatives Gaffney and Mortimer
Committee: House Local Government and Urban Policy
Senate Local, Urban and State Affairs

Date Introduced: January 18, 2006

Date Enrolled: December 13, 2006

Date of Analysis: December 13, 2006

Position: The Department of Labor & Economic Growth supports the bill.

Problem/Background: In 1995 there was a very costly chemical fire in Howell Township at Roto Corporation, a manufacturer of drain cleaner and related products. Following the fire, the township presented a bill to the company for \$76,750.27 under a township ordinance allowing it to recover the cost of its response to certain incidents involving hazardous materials. The company sued arguing that the ordinance was invalid because the ordinance had not been entered in the township clerk's book. The circuit court agreed but the Court of Appeals reversed. The Michigan Supreme Court sustained the Court of Appeals (*Howell Township v Roto Corporation*, Docket No. 115105, September 12, 2000).

Subsequently, local governments in the area organized the Howell Area Fire Authority under the Municipal Emergency Services Act. In 2004 the Authority attempted to adopt an ordinance allowing the authority to recover the costs of responding to service calls. However, an Attorney General's opinion in 2004 determined that fire authorities incorporated under the Municipal Emergency Services Act do not have the authority to adopt ordinances (*OAG 7150 March 1, 2004*).

Description of Bill: The bill amends the Municipal Emergency Services Act to permit authorities to assess fees to cover the costs of providing emergency services under the act. An ordinance must be rescinded if 1/3 or more of the affected municipalities vote to rescind the ordinance within 60 days.

Summary of Arguments

Pro: Fire authorities ought to have the authority to adopt ordinances requiring reimbursement of the sometimes substantial cost of responding to emergency calls. Fees have become increasingly important financing mechanisms as property tax limitations, revenue sharing

reductions, and other events have constrained local revenues. Furthermore, it is unrealistic for an authority to rely on each of its constituent unit's to adopt an ordinance in order to assure that response costs can be recovered.

Con: Cost recovery is necessary only for those calls that impose significant costs. For these cases it should be very feasible to rely on locally-passed ordinances to require reimbursement. Howell Township has such an ordinance, and it has been upheld by the Michigan Supreme Court.

Fiscal/Economic Impact: The bill will have no fiscal impact on the state or the department.

Other State Departments: The Department of Environmental Quality has an interest in this bill.

Any Other Pertinent Information: This bill is related to House Bill 5552, which amends the Natural Resources and Environmental Protection Act, to permit local governments to recover response costs. DEQ had concerns regarding this bill, and it has not moved. The bills are not tie-barred.

Administrative Rules Impact: No new or revised administrative rules will be required.